IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

C.R. No. 5177 of 2007 (O&M)

Date of Decision : 8.10.2007

Santokh Singh

.....Petitioner

Versus

Gram Panchayat of Village Saha, Tehsil Saha and Anr.

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Lekh Raj Sharma, Advocate
for the petitioner.

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VINOD K. SHARMA, J. (ORAL)

The present revision petition has been filed against the orders passed by the learned Courts below vide which application moved by the petitioner under Order 39 Rules 1 & 2 CPC in a suit for permanent injunction, has been ordered to be dismissed.

The plaintiff petitioner filed a suit for permanent injunction restraining the defendants from digging the Nala and constructing the pucca road from Village Saha, Tehsil Saha District Ambala by leaving three gathas Phirni in width and making the same out of the Phirni and giving the benefit of encroachment to Gian Singh and Hardev Singh who had already encroached upon the Phirni forcibly and illegally.

The learned Courts below have prima facie come to the conclusion that the road is being constructed for the benefit of public in general and the plaintiff petitioner should not raise any objection to the construction of the Nala passing through the passage adjoining the wall for

the discharge of dirty water. They have also recorded a finding that the defendants in the written statement specifically stated that no construction was being made on the Phirni, hence, no inconvenience is going to be caused to the plaintiff petitioner or other inhabitants of the village. Neither prima facie case nor balance of convenience is in his favour.

The learned counsel for the petitioner contends that immediately after constructing this road, his house is likely to be demolished. There is no basis for this contention as mere apprehension not borne out from record can not be a ground to claim injunction.

The petitioner has failed to make out any prima facie case.

Accordingly, no merit.

Dismissed.

8.10.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**